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ATTORNEYS FOR PLAINTIFF

UNITED DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

| | |
|---|---|
| RUSSELL BRADBERRY, individually and on behalf of a class of similarly situated individuals, |) Case No. C 07 5298 CW |
| |) |
| |) PLAINTIFF'S WITHDRAWAL |
| |) OF MOTION TO REMAND |
| Plaintiff, |) |
| |) |
| v. |) Hearing Date: December 13, 2007 |
| |) Time: 9:00 a.m. |
| |) Dept.: Courtroom 2, 4 th Floor |
| MBLOX, INC., a Delaware corporation, |) |
| |) The Honorable Claudia Wilken |
| Defendant. |) |
| |) <u>CLASS ACTION</u> |

1 In its opposition to Plaintiff's motion to remand, mBlox, Inc. presented evidence
2 establishing that the Court does have jurisdiction. This evidence was available to mBlox
3 when it removed, and should have been presented in its remand petition. Had mBlox done so,
4 Plaintiff would have been saved the expense of this motion. Even now, the proper procedure
5 for mBlox to have followed was a motion to amend its petition¹, rather than in opposition to
6 this motion. Nevertheless, because mBlox has shown that a proper removal petition would
7 have established the Court's jurisdiction, Plaintiff hereby withdraws his motion to remand.

8 Respectfully submitted,

9 Dated: December 3, 2007

LAW OFFICES OF TERRY M. GORDON

13 By: /s/ Terry M. Gordon

14 TERRY M. GORDON

15 One of the Attorneys for RUSSELL
16 BRADBERRY, individually and on
17 behalf of a class of similarly situated
18 individuals

27 ¹ See, eg. *Gafford v. General Elec. Co.* (6th Cir. 1993) 997 F. 2d 150, 164.